



# Nebraska Resources

## Newsletter

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### Agency Numbers to Remember

#### Agency address:

Nebraska  
Department of Natural Resources  
301 Centennial Mall South  
Fourth Floor  
P.O. Box 94676  
Lincoln, Nebraska 68509-4676

#### Agency phone number:

(402) 471-2363

#### Agency fax number:

(402) 471-2900

#### Agency homepage address:

<http://www.dnr.state.ne.us>

## National Academy of Sciences

### *to Review Existing Science Relating to Endangered Species Use of the Platte River*

*by Jim Cook*



At the request of Congressman Tom Osborne and the Governance Committee for the **Platte River Cooperative Agreement**, the U.S. Department of Interior has agreed to fund an independent National Academy of Sciences review of the science relating to the **four species involved** in the Proposed Platte River Program. Three of those species, the **whooping crane, interior least tern, and piping plover**, use habitats associated with the Central Platte River. The fourth species, the **pallid sturgeon**, is more common to the Missouri and Mississippi rivers, but also has been found in the

Platte River below its confluence with the Elkhorn River.

The Platte River habitat needs of those four species have been the subject of much debate for many years. Probably the most heated debate has been over the timing and quantity of flow needed by the species to produce adequate habitat. However, the question of whether it is necessary to produce habitat that is consistent with other suitable habitat characteristics as described by the U.S. Fish and Wildlife Service (e.g. 1,150 feet wide unvege-

*Continued on page 5*

### *Update and Progress Report of the*

## **North Platte Decree Committee**

*by Jennifer Schellpeper*

On November 13, 2001, the Supreme Court approved the settlement of a lawsuit between Nebraska and Wyoming over the administration of waters in the North Platte River and a modification of the 1945 Decree, which allocates waters of the North Platte River in Colorado and Wyoming among the three states of Colorado, Wyoming and Nebraska. The settlement created the North Platte Decree Committee (NPDC), which is charged with overseeing the implementation of the settlement. The committee held its initial meetings on April 12, 2002, and October 29, 2002. The members of the NPDC include: John Lawson, Bureau of Reclamation; Roger Patterson, Nebraska Department of Natural Resources (DNR); Pat Tyrrell, Wyoming; and Hal Simpson, Colorado.

The purpose of the NPDC was to create a formal entity that would bring together the members on a regular basis to discuss the overall administration of the Modified Decree. The committee was also created to limit/prevent any future misunderstandings, disagreements and/or lawsuits by providing an alternate process for dispute resolution. In short, the Committee is the entity responsible for monitor-

*Continued on page 2*

ing implementation of the terms of the settlement and resolving any problems that arise.

The implementation of all the new administrative procedures on the North Platte River is to be phased in over the next few years with the final component to be completed within 10 years of the settlement approval. The monitoring of these procedures and the collection and analysis of data will continue indefinitely.

The current activities of the committee revolve around the first set of deadlines as defined in the settlement document. Those activities include:

- Write a set of By-Laws for the NPDC
- Determine an agreeable filing system for NPDC documents
- Determine and list baseline wells and hydrologically connected wells for implementing the groundwater provisions of the Modified Decree
- Develop a new methodology for future calculations of consumptive use to administer the new consumptive use limits in the Modified Decree

In addition to NPDC activities, Wyoming is required to create a variety of reports and maps and to complete certain tasks as set out in the Modified Decree. A summary of recent activities follows:

- Consumptive use limitations began in the 2002 irrigation season. To address these limitations, Wyoming has been in the field mapping irrigated acres and will submit an accounting of those lands and the consumptive use calculations in reports to the NPDC in the spring of 2003.
- Wyoming has completed the base map of irrigated acres above Pathfinder and along the mainstem. In 2002 Wyoming began to develop the base map of tributaries between Pathfinder and Guernsey and of the Lower Laramie.
- Wyoming initiated the process to adjudicate all existing unadjudicated irrigation ground water rights and surface water rights below Whalen diversion dam in 2002. This task must be completed by November 13, 2006.
- Wyoming is required to report to NPDC the number of new wells and base line wells that were active in 2002 by December 31, 2002.
- Wyoming will also collect ground water data concerning these wells and provide it to the NPDC by April 1, 2003.
- Starting in the 2003 irrigation season, Wyoming will be required to supply replacement water due to ground water pumping below Whalen Diversion Dam and/or regulate ground water wells in the area.

## 2002 Water Administration Activities

Three years of meteorological drought have been tough on the North Platte Basin. If according to the Modified Decree, the supply of storage water in the system is below the amount needed to fully supply each contractor based on

Bureau forecasts of water supplies, the year is determined to be an "allocation year". The extended drought resulted in the declaration of an "allocation year" on June 4, 2002. In allocation years, the use of storage water is limited to the allocations. The criteria that determine whether or not an allocation year is declared is defined in the settlement. Prior to the official declaration of an allocation year the Bureau forecasts water supplies on a monthly basis between February and June of each year. If an allocation year is expected Wyoming is required to limit diversions on the North Platte River.

According to the Modified Decree, if the Bureau's February through April forecasts indicates the need for an allocation, Wyoming must shut off junior appropriators above Guernsey Reservoir for the Pathfinder, Guernsey, Glendo, and Inland Lakes (April only) water rights. Wyoming administered the water rights of several towns, including Saratoga, Encampment, Riverside, Hanna, Rock River, Mills, and Evansville to be certain they were not diverting more than their permitted priority water rights. In response to administration, the town of Evansville petitioned to exchange a water right it held upstream on Elkhorn Creek, for water it could divert from the North Platte. Wyoming did not approve the petition.

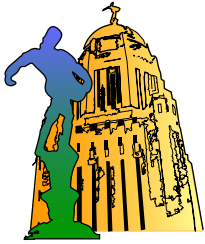
When the Inland Lakes came into priority in April, most of the municipalities and industries upstream of Guernsey were limited. The limitations provided an extra 700 acre-feet of water to the Inland Lakes. To obtain supplemental water, these entities contracted with the Bureau for storage water from Glendo Reservoir.

In April, when irrigators also started to divert water, additional difficulties were encountered. In two separate cases Wyoming had to take legal action against irrigators to stop them from diverting water illegally.

Tom Hayden and staff from the Bridgeport field office monitored flows and the administration of Wyoming water rights. Jennifer Schellpeper, Pat Goltl and Shane Wright were hired by Nebraska to assist in carrying out Nebraska's responsibilities for implementing the Modified Decree. DNR staff have been working with Wyoming to develop needed databases and procedures for ground water and consumptive use administration.

## Final Thoughts and Progress

To date, the NPDC members and the subcommittees are working well together. The listing of baseline wells has been completed and procedures have been written for the review of hydrologically connected wells. By the next meeting these items will be ready for presentation to the NPDC: the By-Laws subcommittee will have the proposed by-laws; the Control Crest subcommittee will have proposals concerning the long term management of the Torrington weather station; and the Ground Water Wells Subcommittee will have maps delineating the areas where ground water wells will not impact the river. The study of new methods for assessing consumptive use is also getting started. The next meeting of the NPDC will be in the spring of 2003.



## Editor's Note:

Governor Johanns plans to attend and honor state employees at the State Capital Rotunda ceremony on November 1, 2002 were changed when Tom Ridge, director of the White House Office of Homeland Security toured the University of Nebraska Medical Center in Omaha on the same day. Senator Bromn, Speaker of the Legislature, presented the awards for Governor Johanns.

## Length of Service Awards

Thomas L. Hayden.....	40 years
James C. Retchless.....	25 years
Ann S. Bleed.....	20 years
Susan A. France.....	25 years
James A. Marburger.....	25 years
Mark B. Noble.....	10 years
Keith A. Paulsen.....	25 years
Steve G. Rathje.....	25 years
Michael T. Thompson.....	25 years

## Funds Obligated to Western Sarpy/Clear Creek Project

by Tom Pesek

At its September 24, 2002, meeting in Kearney, the **Natural Resources Commission obligated a total of \$1,500,000 to the Papio-Missouri River NRD for the Western Sarpy/Clear Creek Project.** These funds are now available on a reimbursable basis to the NRD for costs incurred with the Project Feasibility Study, Engineering and Design Work, and Right-of-Way Acquisition.

The Commission had previously approved a Nebraska Resources Development Fund grant for up to \$3,155,200, not to exceed 60% of the NRD's eligible non-federal project cost of \$5,258,667. The project, planned and designed by the Corps of Engineers, has a total cost of \$14,497,047 and involves the improvement of levees on both sides of the Platte River north of Highway 6 near Ashland. The elevation, relocation, or removal of several structures in the floodway are also included.

Project design is underway and R-O-W acquisition activities have begun.

# 2002 State of Nebraska Employee & Supervisor/Manager of the Year Awards

Since 1985, state government, on behalf of the Governor's Office, has sponsored a recognition program honoring both exceptional employees and career service employees. Governor Johanns proclaimed the month of October 2002, as State of Nebraska Employee Recognition Month and a ceremony honoring the Employees/Managers of the Year was held in the State Capital Rotunda on November 1, 2002. In addition to that ceremony several Length of Service ceremonies were held across Nebraska during the month of October honoring employees for length of service to the State of Nebraska.

Receiving the **Supervisor of the Year Award for the Department of Natural Resources (DNR)** was 25-year veteran **Keith Paulsen**, Supervisor of the Lincoln Field Office, which oversees approximately 3,400 surface water appropriations in southeastern Nebraska. Duties



of the department's field offices include seeing that water administration is done on a fair and legal basis for all those involved, measuring stream flows and inspecting dams. Keith takes his responsibilities very serious and tries to bring common sense, thoughtfulness, and an understanding of Nebraska's water laws into the field. With the exceptionally dry summer experienced across most of Nebraska this year, Keith was put to the test in water administration and one on one communication with surface water irrigators. Bringing a surface water irrigator the bad news that the amount of water in a specific stream or river is not sufficient for all permit holders takes a skill, one Keith possesses. When asked for an aspect of his job he likes, Keith replied, "I like the fact that I really never know from day to day, on any given day what I may be doing or what may come up. I also appreciate the team I work with although sometimes it seems like there is just not enough time to accomplish what needs to be done."

On his own time, Keith enjoys the company of his family, his wife and two children. He enjoys the outdoors, likes hunting, fishing and wood working projects. Keith is an asset to the department where his skills and manner with people help him accomplish his daily tasks and give the department a perspective from the field. The Department and staff congratulate Keith on his award.

Receiving the **Employee of the Year Award for DNR** was **Kim Menke**, an information technology employee of 14 years in the Data Bank Section. During the past several years Kim has taken the lead role of updating and improving the department's ground water well registration database. Kim also implemented the idea of having an interactive on line registration of ground water wells, allowing well drillers from across Nebraska to register wells on line and she shares



lead responsibilities for DNR's numerous geographic information system (GIS) projects. Her fellow employees will be the first to say that having an idea and implementing that idea into a working solution are two totally different things. As a very knowledgeable and hard working employee, Kim enjoys the challenges of the constantly changing world of technology and strives to improve both herself and the value and usefulness of agency information. Her position allows her to work with all areas of the agency and with many other employees on solution to problems as they arise.

Away from work Kim enjoys spending time with her husband and four young ladies. With four girls she said her hobbies are limited to activities the girls are involved in although she does enjoy golfing and volleyball when she has the spare time. The staff and agency wish to congratulate Kim on her recognition.

The Department of Natural Resources is fortunate to have employees like Kim and Keith, both are to be congratulated for their continued outstanding service to the State of Nebraska, its citizens and the Department of Natural Resources.



## Two Watershed Tracts will be Offered at Auction

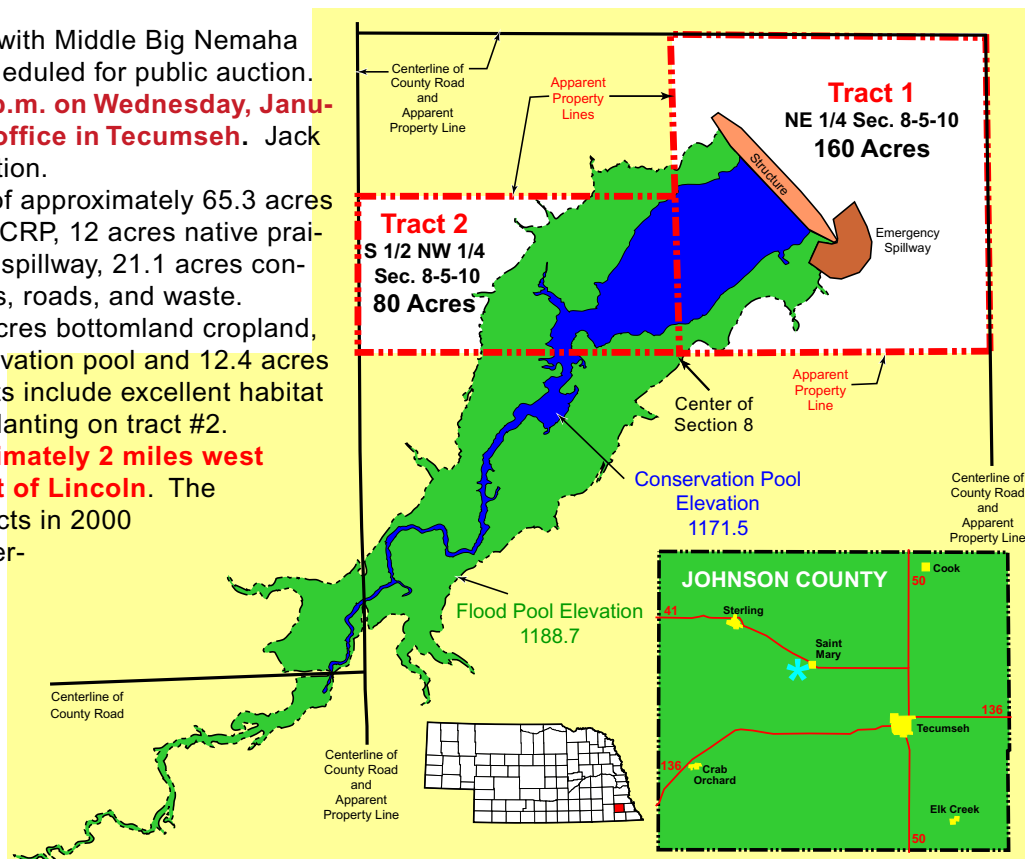
by Tom Pesek

**Two tracts** of land associated with Middle Big Nemaha Site 3 near St. Mary have been scheduled for public auction. **The auction will be held at 1:30 p.m. on Wednesday, January 8, 2003, at the Nemaha NRD office in Tecumseh.** Jack Bernard of Auburn will call the auction.

**Tract #1** (160 acres) consists of approximately 65.3 acres of productive cropland, 30.3 acres CRP, 12 acres native prairie, 9.6 acres dam and emergency spillway, 21.1 acres conservation pool and 21.7 acres trees, roads, and waste.

**Tract #2** (80 acres) has 22.6 acres bottomland cropland, 29.2 acres CRP, 15.8 acres conservation pool and 12.4 acres trees, roads, and waste. Both tracts include excellent habitat and there is a small black walnut planting on tract #2.

The tracts are **located approximately 2 miles west of St. Mary or 45 miles southeast of Lincoln.** The Nemaha NRD purchased these tracts in 2000 using state funds in the Small Watersheds Flood Control Fund. The proceeds from the auction will be returned to the Fund and then used by project sponsors to acquire necessary land rights for future local flood reduction projects in Nebraska.



Since beginning work last July, the Nebraska Water Policy Task Force



by Steve Gaul

Task Force has met three times to address its legislative charge on surface water – groundwater management issues and water transfer/leasing/banking issues. The task force Executive Committee has met five times and upcoming Executive Committee meetings are scheduled for December 13 at the Kearney Holiday Inn and for January 17 in Lincoln.

The public is welcome to attend Task Force or Executive Committee meetings and up to date information on agendas and exact meeting times and places can be found on the task force website at

<http://www.dnr.state.ne.us/watertaskforce/watertaskforce.html>.

The site also contains resource materials, working papers and presentations being used in the process.

### Comparison of Storage in Reservoirs for Water Year 2002

Reservoir		Capacity	Maximum Storage		Carryover	
		Top of Irr. Pool in Acre-feet	Acre-feet	% Average	September 30, 2002 Acre-feet	% Average
Pathfinder	a	1,016,510	433,100	48%	6,020	1%
Glendo (ownership)	a	184,870	148,159	89%	89,893	66%
Lake MacConaughy	a	1,948,000	1,157,000	70%	577,000	43%
Oliver (no irr. water stored)	b	2,680	1,880	70%	1,091	55%
Whitney	a	10,000	10,403	101%	600	14%
Box Butte	a	31,060	17,483	89%	4,861	93%
Enders	a	44,480	15,148	43%	10,318	62%
Harry Strunk Lake	a	37,140	36,538	90%	12,822	56%
Swanson Lake	a	120,160	33,513	30%	22,471	34%
Harlan County Lake	a	342,560	277,639	81%	161,291	64%
Hugh Butler Lake	c	37,780	20,737	60%	11,294	48%
Sherman	d	69,080	69,790	103%	44,940	96%
Merritt	e	74,490	74,780	101%	39,000	79%
Calamus	f	127,400	128,400	111%	54,880	75%
Davis Creek	g	32,459	30,840	107%	6,500	46%

Records used for average

a 1960-2002, b 1981-2002, c 1962-2002, d 1963-2002, e 1964-2002, f 1985-2002, g 1994-2002

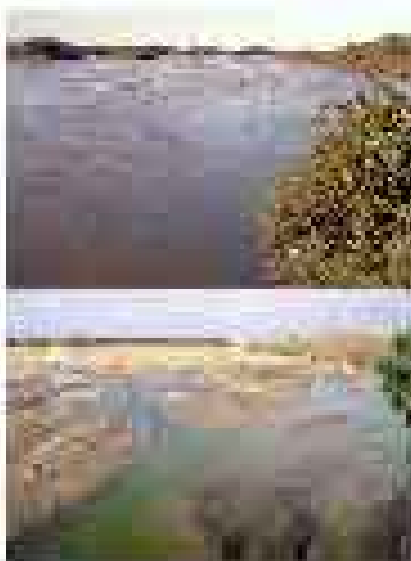
*National Academy of Sciences Continued from page 1*

tated channels) also has produced different opinions and different scientific conclusions. When the Proposed Platte River Program was negotiated in the mid-90's, agreement could not be reached on many of those flow and other habitat issues, and the Proposed Program, the details of which are still being formulated, is in many respects built around an "agreement to disagree" until additional science relating to the species' habitats can be generated and considered by all the parties. That "agreement to disagree" has not been sufficient to eliminate the controversy over the related science. As a result, decisions about entering into the Proposed Program might not be possible without an independent review of that science.

The National Academy of Sciences will conduct the review. It is recognized by many as the "Supreme Court of Science," is chartered by an Act of Congress and has a full-time staff which organizes and coordinates the Academy's scientific reviews and other activities. The actual reviews themselves, however, are conducted by panels of independent scientists selected by the Academy based on their expertise and on the need to achieve a balance of views among the panel members. The scientists who conduct the review provide their services free of charge but are reimbursed for all expenses. Public meetings are typically held early in the review process so that the reviewing panel may be provided with such information as interested parties believe is relevant to the review to be conducted.

In agreeing to the review by the National Academy of Sciences, the U.S. Department of Interior committed to work closely with the Governance Committee for the proposed Platte River program in preparing the scope for that review. As a result, the Governance Committee has endorsed a project scope which provides for the Academy to do the following: (1) review and evaluate the existing science relevant to the Central Platte River habitat needs of the whooping crane, least tern, and piping plover and the Lower

Platte River habitat needs of the pallid sturgeon; (2) assess the scientific validity of the U.S. Fish and Wildlife Service's conclusions that Central Platte River habitat is essential to the continued existence of those listed avian species and/or their recovery, and that Lower Platte River habitat is essential to the continued existence of the pallid



*Nebraska's Platte River can range from a flowing river to almost a dry river bed even under normal conditions throughout a year.*

sturgeon and/or its recovery; and (3) assess the scientific validity of the U.S. Fish and Wildlife Service's conclusions and recommendations about the importance of those Platte River basin habitats to the conservation and recovery of those listed species. The Governance Committee has also identified ten more specific questions related to that gen-

eral charge. Those questions ask the review panel to focus on whether the current habitat conditions in and around the Platte River jeopardize the continued existence of each of the species involved and whether they limit its recovery. Also to be reviewed are Fish and Wildlife Service conclusions and recommendations relating to the causes of habitat change in the central Platte River.

The cost of the review by the National Academy was not known at the time this newsletter was sent to the printer, but will be paid by the Department of Interior. A suggested schedule for the review calls for the Academy to select the review panel and begin work by January 31, 2003, with the work to be concluded and a final report issued by the end of 2003.

Whether the review by the National Academy of Sciences will require modification of the Proposed Platte River Program cannot be determined until that review has been made available. In the meantime, the parties involved in that process will move forward with Program formulation. A draft environmental impact statement is expected to be released before the review is completed. The results of the review will be reflected in the final EIS and will be available for consideration by Nebraska, the other states, and the other parties to the Proposed Program before decisions on participation in that program have to be made.

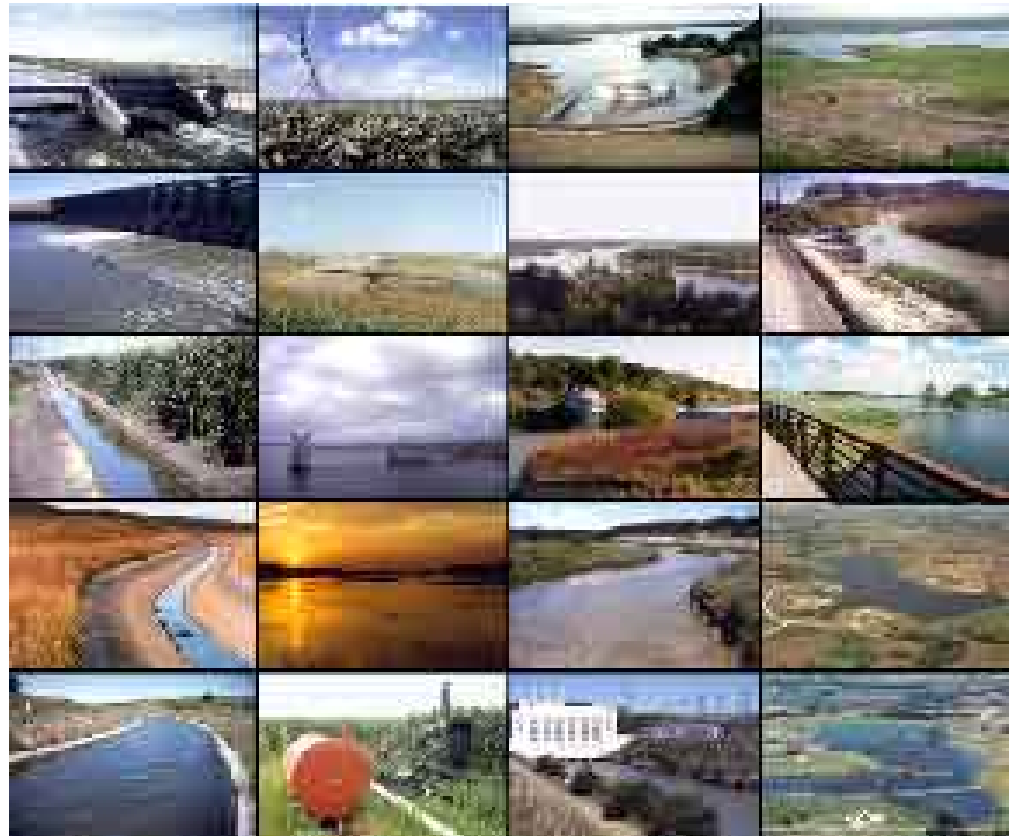
### Drought continues through 3<sup>rd</sup> year in Missouri River Basin



Between January 1st and October 31st of this year, the runoff into the **Missouri River** above Sioux City has only totaled 62% of normal. The forecast for this year, 16.1 million-acre feet of water (MAF), is 9.1 MAF less than normal. As a result of the three years of drought, the system storage is 13 MAF below normal and **the three largest reservoirs are 13 -18 feet below normal**. Unless conditions change dramatically over the winter, users of the Missouri River in Nebraska can expect to experience lower than normal flows once again next year.

# Nebraska Resources

Nebraska Department of Natural Resources  
301 Centennial Mall South, 4th Floor  
P.O. Box 94676  
Lincoln, Nebraska 68509-4676



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## State of Nebraska

Mike Johanns, Governor

## Nebraska

## Department of Natural Resources

Roger K. Patterson, Director

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Nebraska Department of Natural Resources....

....dedicated to the sustainable use and proper management of the State's natural resources.